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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/681,488

04/16/2001

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EXAMINER

GOLD, AVI M

ART UNIT

PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALEXANDRU GAVRILESCU, NOEL W. ANDERSON,
and HARPAL BASSALI

Appeal 2008-002905
Application 09/681,488
Technology Center 2400

Mailed: June 18, 2009

Before DALE M. SHAW, *Chief Appeals Administrator*

ORDER REMANDING TO THE EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on April 4, 2008. A Docketing Notice was mailed and Appeal No. 2008-002905 was assigned on April, 16, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being remanded to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, APPEALED CLAIMS

Appellants have not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that rejections are outstanding for the following pending claims: 1-37. The rejected claim that has not been appealed and/or argued is claim 37.

DISCUSSION

The Board of Appeals and Interferences (Board), in *Ex parte Ghuman*, 88 USPQ2d 1478 (BPAI 2008) (precedential), held that in appeals where rejected claims are expressly withdrawn, or are implicitly withdrawn by not presenting arguments in support of patentability, the Board will remand the application to the Examiner with instructions to cancel the expressly or implicitly withdrawn claims. *See also Manual of Patent Examining Procedure* (MPEP) § 1215.03 (8th ed. Rev. 6, Sept 2007).

Accordingly, it is ORDERED that the application is remanded to the Examiner:

- 1) to enter a paper canceling claim 37;
- 2) upon entry of the paper, to return the application to the Board for the consideration of appealed claims; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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